

SENATE BILL No. 555

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-22-15-7; IC 5-22-15.1.

Synopsis: Preference for satisfying workplace standards. Provides that an offeror who wishes to sell supplies to a governmental body, a state educational institution, a body corporate and politic, or the state lottery commission may claim a preference if the supplies were made by an entity in a country other than the United States and the entity's workplace meets specified standards. Provides that the preference is equivalent to a preference claimed for supplies manufactured in the United States.

Effective: July 1, 2001.

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January 23, 2001, read first time and referred to Committee on Commerce and Consumer Affairs.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE BILL No. 555

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-22-15-7, AS AMENDED BY P.L.153-1999,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2001]: Sec. 7. (a) An offeror may claim one (1) of the
4 following types of preference for which the offeror is eligible:

5 (1) An Indiana business preference under rules adopted under
6 section 20 of this chapter or IC 4-13.6-6-2.5.

7 (2) A preference for supplies as provided by sections 16, 18, and
8 19 of this chapter.

9 (3) An Indiana small business preference as provided by section
10 23 of this chapter.

11 (b) An offeror may not claim more than one (1) preference as
12 provided by sections 16, 18, and 19 of this chapter for a given supply
13 item.

14 (c) This section does not:

15 (1) apply to; or

16 (2) limit;

17 action of the Indiana department of administration under rules adopted



under section 21 of this chapter or a preference claimed under
IC 5-22-15.1.

SECTION 2. IC 5-22-15.1 IS ADDED TO THE INDIANA CODE
 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 JULY 1, 2001]:

Chapter 15.1. Workplace Standards Preference

Sec. 1. As used in this chapter, "department" means the Indiana
 department of administration.

Sec. 2. As used in this chapter, "entity" means a corporation, a
 partnership, a limited partnership, a limited liability company, or
 another legal entity that manufactures supplies in a location
 outside the United States.

Sec. 3. An offeror may claim a preference for supplies made by
 an entity in a country other than the United States if the workplace
 where the supplies were made conforms to the standards and
 practices described in this chapter.

Sec. 4. Before the department may grant a preference to an
 offeror for supplies made by an entity described in section 3 of this
 chapter, the offeror must certify that the entity meets the
 standards set forth in sections 9 through 19 of this chapter.

Sec. 5. The preference provided to an offeror under this chapter
 is equivalent to the preference granted under IC 5-22-15-21.

Sec. 6. The department shall develop a form for the certification
 required under section 4 of this chapter.

Sec. 7. An entity must comply with all applicable legal
 requirements of the country of manufacture in conducting business
 related to or involving the production of goods.

Sec. 8. An entity shall comply with the employment standards
 set forth in sections 9 through 19 of this chapter.

Sec. 9. (a) An entity shall pay employees at least wages and
 benefits that:

- (1) comply with all applicable laws and regulations of the
 country where the entity's workplace is located; and
- (2) provide for essential needs and establish a dignified living
 wage, as set forth in subsection (b), for the entity's workers
 and the workers' families.

(b) As used in this section, a "living wage" is a "take home" or
 "net" wage, earned during a country's legal maximum work week,
 (not to exceed forty-eight (48) hours). A living wage provides for
 the basic needs, including housing, energy, nutrition, clothing,
 health care, education, potable water, childcare, transportation,
 and savings, of an average family unit of employees in the garment



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1 manufacturing employment sector of the country divided by the
 2 average number of adult wage earners in the family unit of
 3 employees in the garment manufacturing employment sector of the
 4 country.

5 **Sec. 10. Hourly or quota based wage employees, or both:**

6 (1) may not be required to work more than the lesser of:

7 (A) forty-eight (48) hours per week; or

8 (B) the limits on regular hours allowed by the law of the
 9 country of manufacture; and

10 (2) are entitled to at least one (1) day off every seven (7) day
 11 period, as well as holidays and vacations.

12 **Sec. 11. All overtime hours must be worked voluntarily by**
 13 **employees. In addition to their compensation for regular hours of**
 14 **work, hourly or quota based wage employees, or both, shall be**
 15 **compensated for overtime hours:**

16 (1) at the premium rate as is legally required in the country of
 17 manufacture; or

18 (2) in those countries where the laws do not exist, at a rate at
 19 least one and one-half (1 1/2) the employees' regular
 20 compensation rate.

21 **Sec. 12. (a) Except as provided in subsection (b), an entity shall**
 22 **not employ any person who is less than:**

23 (1) fifteen (15) years of age; or

24 (2) fourteen (14) years of age, if, consistent with International
 25 Labor Organization practices for developing countries, the
 26 law of the country of manufacture allows employees who are
 27 fourteen (14) years of age.

28 (b) Where the age for completing compulsory education is
 29 higher than the standard for the minimum age of employment set
 30 forth in subsection (a), the higher age for completing compulsory
 31 education applies to this section.

32 (c) An entity must agree to:

33 (1) consult with governmental, human rights, and
 34 nongovernmental organizations; and

35 (2) take reasonable steps as evaluated by the department;
 36 to minimize the negative impact on children released from
 37 employment as a result of implementation or enforcement of this
 38 section.

39 **Sec. 13. An entity shall not use forced prison labor, indentured**
 40 **labor, bonded labor, or other forced labor.**

41 **Sec. 14. (a) An entity shall provide a safe and healthy working**
 42 **environment to prevent accidents and injury to health arising out**



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of, linked with, or occurring in the course of work or as a result of the operation of contractor facilities.

(b) An entity must comply with the following provisions:

(1) The entity shall ensure that its direct operations and those of any subcontractors comply with all workplace safety and health regulations:

(A) of the national government where the production facility is located; or

(B) contained in 29 CFR;

whichever regulation is more health protective for a given hazard.

(2) The entity shall ensure that the entity's:

(A) direct operations; and

(B) subcontractors;

comply with all health and safety conventions of the International Labor Organization ratified and adopted by the country in which the production facility is located.

Sec. 15. A person employed by the entity shall not be subject to any discrimination in employment, including hiring, salary, benefits, advancement, discipline, termination, or retirement, on the basis of gender, race, religion, age, disability, sexual orientation, nationality, political opinion, or social or ethnic origin.

Sec. 16. Every employee of the entity shall be treated with dignity and respect. An employee shall not be subject to any physical, sexual, psychological, or verbal harassment or abuse. Entities may not use or tolerate any form of corporal punishment.

Sec. 17. (a) An entity shall recognize and respect the right of employees to freedom of association and collective bargaining.

(b) An employee shall not be subject to harassment, intimidation, or retaliation in the employee's efforts to freely associate or bargain.

(c) An entity shall not cooperate with governmental agencies and other organizations that use the power of the state to prevent workers from organizing a union of the employee's choice. Contractors shall allow union organizers free access to employees. Licensees shall recognize the union of the employees' choice.

Sec. 18. (a) Women workers are entitled to receive equal:

(1) remuneration, including benefits;

(2) treatment;

(3) evaluation of the quality of their work; and

(4) opportunity to fill all positions open to male workers.

(b) Pregnancy tests may not be a condition of employment, nor

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1 may they be demanded of employees.

2 (c) Workers who take maternity leave may not face:

3 (1) dismissal or threat of dismissal;

4 (2) loss of seniority; or

5 (3) deduction of wages.

6 Workers must be able to return to their former employment at the
7 same rate of pay and benefits.

8 (d) Entities shall provide appropriate services and
9 accommodation to women workers in connection with pregnancy.

10 Sec. 19. (a) Workers may not be forced or pressured to use
11 contraception.

12 (b) Workers may not be exposed to hazards, including glues and
13 solvents, that may endanger their safety, including their
14 reproductive health.

15 Sec. 20. If, before the contract is awarded, the department
16 determines the entity does not meet the standards set forth in this
17 chapter, the department may do any of the following:

18 (1) Declare the offeror nonresponsible and bar the offeror
19 from doing business with the state for a specified period, not
20 exceeding two (2) years.

21 (2) Require the offeror to reimburse the state for the costs
22 incurred due to rebidding of the contract.

23 Sec. 21. If, after the award of the contract, the department
24 determines the entity does not meet the standards set forth in this
25 chapter, the department may do any of the following:

26 (1) Cancel the contract.

27 (2) Declare the offeror nonresponsible and bar it from doing
28 business with the state for a specified period, not exceeding
29 two (2) years.

30 (3) Require the offeror to reimburse the state for the amount
31 incurred due to rebidding of the contract.

32 Sec. 22. The sanctions in sections 20 and 21 of this chapter do
33 not limit what actions could be taken through appropriate civil or
34 criminal statutes.

35 Sec. 23. (a) An offeror who is dissatisfied with the decision
36 rendered concerning sanctions may, within fifteen (15) days after
37 receiving the notification, request in writing a reconsideration of
38 the decision and submit additional written evidence bearing on the
39 sanction.

40 (b) The department will consider the request within forty-five
41 (45) days of receiving it. The department will issue a written
42 decision.

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1 **Sec. 24. The department shall adopt rules under IC 4-22-2 to**
2 **implement this chapter.**

3 SECTION 3. [EFFECTIVE JULY 1, 2001] (a) **Notwithstanding**
4 **IC 5-22-15-7, as amended by this act, and IC 5-22-15.1, as added by**
5 **this act, the department shall adopt rules under IC 4-22-2 to**
6 **implement this act not later than June 30, 2003.**

7 (b) **Notwithstanding IC 5-22-15-7, as amended by this act, and**
8 **IC 5-22-15.1, as added by this act, this act applies to contracts for**
9 **supplies awarded after June 30, 2003.**

10 (c) **This SECTION expires July 1, 2003.**

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